

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-213769

DATE: May 1, 1984

MATTER OF: Donnie R. Sparks - Reimbursement of Real
Estate Expenses - Sale or Purchase of a
Lot

DIGEST:

Employee claims reimbursement of real estate expenses for purchase or sale of a lot incident to his transfer. He was not able to finish construction of a residence on the lot prior to his transfer. His claim is denied since real estate expenses are payable only for the sale or purchase of a lot integrated with a dwelling or used for a mobile home in accordance with paragraph 2-6.1 of the Federal Travel Regulations, and he did not live in a residence on the lot when he was first notified of his transfer.

The issue to be decided in this decision is whether an employee is entitled to reimbursement of real estate expenses for the purchase or sale of a lot that was not used as his actual residence. As explained below, an employee is not entitled to reimbursement for these expenses.

This decision results from the request of Jerry A. Fries, Authorized Certifying Officer, U.S. Department of the Interior, Bureau of Land Management (BLM), Washington, D.C., for an opinion as to whether a BLM employee is entitled to reimbursement of real estate expenses incident to a permanent change of duty station. The request was not accompanied by a voucher. 31 U.S.C. § 3529, as codified by Pub. L. 97-258, 96 Stat. 967. However, the record indicates that the certifying officer has a voucher before him. Therefore, the question presented may be decided in order to expedite matters. H. J. Otway, 58 Comp. Gen. 612 (1979).

Mr. Donnie R. Sparks, a BLM employee, was transferred from Las Cruces, New Mexico, to Socorro, New Mexico, effective July 11, 1982. For 4 months after reporting for duty in Socorro, Mr. Sparks searched for suitable housing without success. On November 30, 1982, he purchased a lot and made arrangements to have a new home constructed for use as his residence.

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On December 23, 1982, 2 days from finalizing the contract for construction of the home, Mr. Sparks attended a business meeting at which he learned of a merger within the BLM which made his relocation a distinct possibility. Based on this information, Mr. Sparks stopped activity on the construction of his new residence. He was transferred to Canon City, Colorado, effective August 8, 1983, without ever constructing a dwelling on the lot.

Mr. Sparks claims reimbursement for real estate expenses incurred in the purchase of the lot. In addition, he asks whether he may be reimbursed for expenses incurred in the sale of the lot.

Under 5 U.S.C. § 5724a(a)(4) (1982), an employee may be reimbursed for the expenses of purchasing a home at his new duty station and sale of a residence at his old duty station. However, real estate expenses for the purchase or sale of a lot are allowed only when the lot is integrated with a dwelling or used for a mobile home, as provided in paragraph 2-6.1 of the Federal Travel Regulations, FPMR 101-7 (September 1981) (FTR). See Richard C. Smith, B-205412, April 15, 1982, and Allyn T. Baskerville, B-196202, June 13, 1980. This rule applies even though the employee intended to construct a residence on the lot before he was notified that he would be transferred. Smith, cited above. Further, the employee must have resided in the dwelling to be sold when he was first notified of his transfer by competent authority. See FTR paragraph 2-6.1d.

Accordingly, since Mr. Sparks did not construct a residence on the lot, nor was it his residence when he was notified of his transfer, he is not entitled to reimbursement for real estate expenses for its purchase or sale.

Milton J. Jordan

Acting Comptroller General
of the United States